

REMARKS

Claim Rejections

Claims 1, 2, 4, 7-9, 11, 14, and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Heidorn (DE-200 00 079). Claims 5, 6, 12, and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Heidorn in view of Torniainen et al. (US-6,371,324). Claims 1, 2, 4, 7-9, 11, 14, and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Heidorn in view of Schoenmakers (WO-95/07847). Claims 5, 6, 12, and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to claims 1 and 9 above, and further in view of Torniainen.

It is noted that the primary reference to Heidorn was initially cited by the Examiner in the outstanding Final Office Action. Thus, this amendment represents Applicant's initial opportunity to respond to the rejections based upon this reference.

Drawings

Formal drawings of Figures 2, 3, and 4 are attached and include changes approved in the outstanding Office Action. The formal drawings are accompanied by a LETTER TO THE OFFICIAL DRAFTSPERSON.

Claim Amendments

By this amendment, Applicant has amended claims 1, 7-9, 14, and 15. It is believed that the claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination. The claims recite a lid (10) configured to be mounted on a food container (12) having a rim bounding an opening of the food container, the lid comprising: a top cover wall (14) having a generally planar configuration, the top cover wall having one opening (16) therethrough and an outer periphery; a one-piece eating utensil (18) located in the opening of the top cover wall, the one-piece utensil having a food engaging portion (18a) of substantially uniform thickness and an integral handle portion (18b)

extending therefrom, the handle portion being configured to be gripped by a hand of a user, the one-piece eating utensil being removably connected to the top cover wall solely by a plurality of discrete, spaced apart, frangible connecting elements (20), a length (l) of the one-piece eating utensil from an end of the food engaging portion to an end of the handle portion being less than a distance (d1) between opposite sides of the periphery of the top cover wall; and, a side wall (22) extending downwardly from the periphery of the top cover wall and configured to engage the rim portion of the food container, the side wall including first and second wall portions (22a, 22b) wherein the second wall portion of one lid is configured to accept therein the first wall portion of another lid so as to enable a plurality of lids to be stacked in nested fashion.

In other embodiments of the present invention, the food engaging portion is either a spoon (18a-c), a fork (26a-c), or a knife (28a-d). Another embodiment of the present invention further comprises a protective sheet (24) permanently attached to the top wall and covering at least the one-piece eating utensil. Another embodiment of the present invention includes a protective sheet removably attached to the top cover wall and covering the at least one-piece eating utensil.

Applicant submits that the primary reference to Heidorn does not disclose each and every feature of Applicant's claimed invention, as required by 35 U.S.C. § 102. It is abundantly clear that Heidorn is directed toward a two-piece eating utensil in which each of the two separate pieces are affixed to the container lid. All of Applicant's claims require the top cover to have one opening therethrough and to have a one-piece eating utensil located in the opening. The claims also specifically require that the one-piece utensil have a food engaging portion of substantially uniform thickness and an integral handle portion extending therefrom configured to be gripped by a hand of a user.

It is noted that Heidorn does not disclose, in any fashion whatsoever, a top cover wall having a single opening, or a one-piece eating utensil. The one-piece eating utensil also must have a handle portion configured to be gripped by a hand of a user and a food engaging portion of substantially uniform thickness. Clearly, Heidorn does not disclose either of these features. Heidorn is devoid of any

illustration or disclosure of a thickness of the food engaging portion and, quite clearly, does not disclose such a food engaging portion having an integral handle configured to be gripped by a hand of a user. In Heidorn, the food engaging portion has an extension that is configured to be attached to the handle portion of the two-piece eating utensil. Heidorn is also completely devoid of any cross-sectional views of the eating utensil and, therefore, cannot be interpreted as disclosing a food engaging portion of substantially uniform thickness as required by Applicant's claims.

Thus, Applicant submits that Heidorn does not disclose each and every feature of Applicant's invention and, therefore, could not possibly anticipate any of Applicant's claims under 35 U.S.C. § 102. The outstanding rejection of Applicant's claims 1, 2, 4, 7-9, 11, 14 and 15 as being anticipated by Heidorn is respectfully traversed.

The secondary reference to Torniainen (6,371,324) was cited for its showing of a lid having an eating utensil that could be a fork, a knife, or a combination spoon and fork. It is clear that this reference does not teach a top cover having a single opening therethrough, nor does it teach a one-piece eating utensil having the specific features required by all of Applicant's claims, as discussed above. Thus, the combination of this reference with Heidorn could not possibly render obvious any of Applicant's claims 5, 6, 12 and 13 as postulated by the Examiner. Neither of the cited prior art references disclose the features of Applicant's claims and, therefore, it is abundantly clear that the combination of these two references could not possibly be interpreted as teaching the features of Applicant's claims. The outstanding rejections of claims 5, 6, 12 and 13 as being rendered obvious by Heidorn taken in view of Torniainen is respectfully traversed.

The secondary reference to Schoenmakers was cited for its disclosure of a one-piece eating utensil, the Examiner holding that it would be obvious to substitute the one-piece eating utensil of Schoenmakers for the two-piece eating utensil in Heidorn. As noted on page 4 of the previous response filed on September 23, 2002, Schoenmakers does not disclose a one-piece eating utensil wherein the food engaging portion has a substantially uniform thickness, as required by all of

Applicant's claims. Schoenmakers specifically states, on page 5, lines 27 et seq. that:

The spoon 8 comprises a handle portion 16 and a bowl portion 17. The upper surface 18 of the spoon 8 is flat and flush with the flat upper surface 10 of the cover portion 2. A strengthening rib 21 is provided in the lower surface 19 of the spoon 8 and runs around the perimeter of the spoon 8. Another strengthening rib 23 extends across the spoon to define the border between the handle portion 16 and the bowl portion 17.... The lower surface of the bowl portion is of dished shape having a thinner central region at 24, and a thicker outer region at 25. [Emphasis added]

Clearly, Schoenmakers cannot be rationally interpreted as disclosing a food engaging portion of substantially uniform thickness, when the specific disclosure points in exactly the opposite direction.

Thus, even if Schoenmakers were combined with Heidorn, the resultant combination would be completely devoid of a one-piece eating utensil having a food engaging portion of substantially uniform thickness as required by all of Applicant's claims. Since neither Schoenmakers nor Heidorn disclose this feature, their combination could not possibly be interpreted as disclosing this feature. The outstanding rejection of Applicant's claims 1, 2, 4, 7-9, 11, 14 and 15 as being rendered obvious by Heidorn taken in view of Schoenmakers is respectfully traversed.

Summary

In view of the foregoing, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. It is not believed that the foregoing amendments to the claims, which were made to distinguish over the newly cited primary reference to Heidorn, will necessitate any further searching and/or consideration on the part of the Examiner, since such claimed feature would have inherently been considered during the initial search.

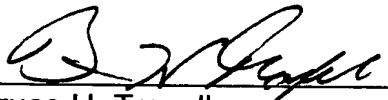
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Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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